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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/828,477	04/05/2001	Dustin M. Davis	027448.0011	6780

7590 06/16/2004
John H. D' Antico
Brobeck, Phleger & Harrison LLP
4801 Plaza on the Lake
Austin, TX 78746

EXAMINER

CARTER, AARON W

ART UNIT	PAPER NUMBER
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2625

DATE MAILED: 06/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

RECEIVED

JUN 23 2004

Technology Center 2600

Office Action Summary

Application No.

09/828,477

Applicant(s)

DAVIS ET AL.

Examiner

Aaron W Carter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 April 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 April 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>5</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings were received on April 5, 2001. These drawings are accepted.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 9, 14, 26 and 31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 9 and 26 state that the biometric sample of independent claims 1 and 18, comprises a voiceprint, however in step (a) of claims 1 and 18, a live image of the biometric sample is received. It is indefinite how voiceprints can be received in the form of a live image. Appropriate correction is required.

Claims 14 and 31 state that the biometric sample of independent claims 1 and 18, comprises a facial recognition, however in step (a) of claims 1 and 18, a live image of the biometric sample is received. It is indefinite how facial recognition can be received in the form of a live image. Appropriate correction is required.

Claim Rejections - 35 USC § 102

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4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-9 and 18- 26 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent Application Publication 2002/0154793 to Hillhouse et al. ("Hillhouse").

As to claims 1 and 18, Hillhouse discloses a method for mitigating distortive effects in an applicant's biometric sample in a biometric verification system that stores a master template for each biometric sample for said applicant, said method comprising steps of:

- a. receiving a live image of a biometric sample from said applicant (page 2, paragraph 0029);
- b. generating a live template from said live image (page 2, paragraph 0030);
- c. generating a rolling template from said live image if said live template corresponds to said master template according to predefined criteria (page 2, paragraphs 0031 and 0032); and
- d. storing said rolling template (page 2, paragraph 0032);

wherein said system allows said applicant to access said system if a subsequent live template generated from a subsequent live image of said biometric sample from said applicant corresponds to at least one of said master or rolling templates for said applicant according to predefined criteria (page 2, paragraph 0033).

As to claims 2 and 19, Hillhouse discloses the method of claim 1, wherein said system stores said rolling template as a master template (page 4, paragraph 0065).

As to claims 3 and 20, Hillhouse discloses the method of claim 1, wherein said system stores a predetermined number of said rolling templates (page 4, paragraph 0065).

As to claims 4 and 21, Hillhouse discloses the method of claim 3 wherein said system stores said rolling templates sorted according to predefined criteria (page 4, paragraph 0065, predefined criteria corresponds to age and according to the highest comparison composite).

As to claim 5 and 22, Hillhouse discloses the method of claim 1, wherein said system stores enrollment data and identification data comprising primary identification data, secondary identification data, if any, and financial account data, if any for said applicant (page 2, paragraph 0041 and page 1, paragraph 0002).

As to claims 6 and 23, Hillhouse discloses the method of claim 1 wherein said system stores multiple master templates for each biometric sample for said applicant (page 4, paragraph 0065).

As to claims 7 and 24, Hillhouse discloses the method of claim 1, wherein said system stores enrollment data and identification data comprising primary identification data, secondary

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identification data, if any, and financial account data, if any, and multiple master templates for each biometric sample for said applicant (page 2, paragraph 0041, page 1, paragraph 0002 and page 4, paragraph 0065).

As to claims 8 and 25, Hillhouse discloses the method of claim 1 wherein said biometric sample comprises a fingerprint (page 2, paragraph 0019).

As to claims 9 and 26, Hillhouse discloses the method of claim 1 wherein said biometric sample comprises a voiceprint (page, 2, paragraph 0019, "voice information").

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 10-17 and 27-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hillhouse.

As to claims 10-17 and 27-34, Hillhouse neglects to explicitly disclose that the biometric samples comprise of a handprint, handwriting, hand geometry, facial geometry, facial recognition, retinal scan, iris scan and thermal imaging. However, Hillhouse's system of authentication or identifying a user, uses biometric information in general (Abstract and page 2,

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paragraph 0020). The Examiner takes Official Notice that the use of various types of biometric samples including a handprint, handwriting, hand geometry, facial geometry, facial recognition, retinal scan, iris scan and thermal imaging are well known in the art. It would have been obvious to one of ordinary skill in the art at the time of the invention to use any of the biometric samples mentioned above in the invention of Hillhouse since it was known in the art that they all provide unique forms of authentication and identification and consequently provide robust security.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Patent 6,125,192 to Bjorn et al. discloses a system of updating a master biometric template.

US Patent 5,892,824 to Beatson et al. discloses a system of updating a master biometric template.

US Patent 6,741,729 to Bjorn et al. discloses a system of updating a master biometric template.

US Patent 6,434,259 to Hamid et al. discloses a system of updating a master biometric template.

US Patent 6,064,751 to Smithies et al. discloses a system of updating a master biometric template.

US Patent 5,377,301 to Rosenberg et al. discloses a system of updating a master biometric template.

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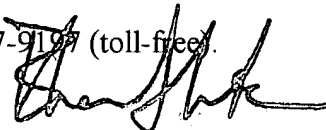
US Patent 4,040,010 to Crane et al. discloses a system of updating a master biometric template.

US Patent 5,548,647 to Naik et al. discloses a system of updating a master biometric template.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron W Carter whose telephone number is (703) 306-4060. The examiner can normally be reached on 7am - 3:30 am (Mon. - Fri.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bhavesh Mehta can be reached on (703) 308-5246. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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